



House of Representatives

File No. 856

General Assembly

January Session, 2013

(Reprint of File No. 694)

Substitute House Bill No. 6659
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2013

AN ACT CONCERNING CIVIL IMMIGRATION DETAINERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2014*) (a) For the purposes of
2 this section:

3 (1) "Civil immigration detainer" means a detainer request issued
4 pursuant to 8 CFR 287.7;

5 (2) "Convicted of a felony" means that a person has been convicted
6 of a felony, as defined in section 53a-25 of the general statutes,
7 pursuant to a final judgment of guilt entered by a court in this state or
8 in a court of competent jurisdiction within the United States upon a
9 plea of guilty, a plea of nolo contendere or a finding of guilty by a jury
10 or the court notwithstanding any pending appeal or habeas corpus
11 proceeding arising from such judgment;

12 (3) "Federal immigration authority" means any officer, employee or
13 other person otherwise paid by or acting as an agent of United States
14 Immigration and Customs Enforcement or any division thereof or any

15 officer, employee or other person otherwise paid by or acting as an
16 agent of the United States Department of Homeland Security who is
17 charged with enforcement of the civil provisions of the Immigration
18 and Nationality Act; and

19 (4) "Law enforcement officer" means:

20 (A) Each officer, employee or other person otherwise paid by or
21 acting as an agent of the Department of Correction;

22 (B) Each officer, employee or other person otherwise paid by or
23 acting as an agent of a municipal police department;

24 (C) Each officer, employee or other person otherwise paid by or
25 acting as an agent of the Division of State Police within the
26 Department of Emergency Services and Public Protection; and

27 (D) Each judicial marshal and state marshal.

28 (b) No law enforcement officer who receives a civil immigration
29 detainer with respect to an individual who is in the custody of the law
30 enforcement officer shall detain such individual pursuant to such civil
31 immigration detainer unless the law enforcement official determines
32 that the individual:

33 (1) Has been convicted of a felony;

34 (2) Is subject to pending criminal charges in this state where bond
35 has not been posted;

36 (3) Has an outstanding arrest warrant in this state;

37 (4) Is identified as a known gang member in the database of the
38 National Crime Information Center or any similar database or is
39 designated as a Security Risk Group member or a Security Risk Group
40 Safety Threat member by the Department of Correction;

41 (5) Is identified as a possible match in the federal Terrorist Screening

42 Database or similar database;

43 (6) Is subject to a final order of deportation or removal issued by a
44 federal immigration authority; or

45 (7) Presents an unacceptable risk to public safety, as determined by
46 the law enforcement officer.

47 (c) Upon determination by the law enforcement officer that such
48 individual is to be detained or released, the law enforcement officer
49 shall immediately notify United States Immigration and Customs
50 Enforcement. If the individual is to be detained, the law enforcement
51 officer shall inform United States Immigration and Customs
52 Enforcement that the individual will be held for a maximum of forty-
53 eight hours, excluding Saturdays, Sundays and federal holidays. If
54 United States Immigration and Customs Enforcement fails to take
55 custody of the individual within such forty-eight-hour period, the law
56 enforcement officer shall release the individual. In no event shall an
57 individual be detained for longer than such forty-eight-hour period
58 solely on the basis of a civil immigration detainer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2014	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill requires law enforcement officers to notify United States Immigration and Customs Enforcement about civil detainees and does not result in a fiscal impact.

House "A" struck the language of the underlying bill and replaces it with new language that does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6659 (as amended by House "A")******AN ACT CONCERNING CIVIL IMMIGRATION DETAINERS.*****SUMMARY:**

This bill establishes the requirements law enforcement officers must follow when they receive a civil immigration detainer regarding a person in their custody (see BACKGROUND).

Specifically, it prohibits law enforcement officers from detaining the person unless the officer determines that specified public safety risk factors exist. It also requires law enforcement officers, upon determining whether to detain or release the person, to immediately notify U.S. Immigration and Customs Enforcement (ICE). If the person is to be detained, the officer must inform ICE that the person will be held for up to 48 hours (excluding Saturdays, Sundays, and federal holidays). If ICE fails to take custody of the person within 48 hours, the officer must release the individual. The bill prohibits the holding of a person for longer than 48 hours on the basis only of a civil immigration detainer under any circumstances.

*House Amendment "A" replaces the underlying bill, which similarly prohibits law enforcement officers from holding an individual under a civil immigration detainer beyond the time they would otherwise be released, under specified circumstances.

EFFECTIVE DATE: January 1, 2014

CIVIL IMMIGRATION DETAINER***Public Safety Risk Factors***

The bill requires law enforcement officers, in carrying out a civil immigration detainer regarding a person in their custody, to release

the person unless they determine that the person:

1. has been convicted of a felony;
2. is subject to pending criminal charges in Connecticut where bond has not been posted;
3. has an outstanding arrest warrant in Connecticut;
4. is identified as a known gang member in the National Crime Information Center's database, or any similar database, or is designated as a Security Risk Group member or a Security Risk Group Safety Threat member by the Department of Correction;
5. is identified as a possible match in the federal Terrorist Screening Database or similar database;
6. is subject to a final order of deportation or removal issued by a federal immigration authority; or
7. presents an unacceptable risk to public safety.

DEFINITIONS

Convicted of a Felony

Under the bill, "convicted of a felony" means that a person has been convicted of an offense for which he or she may be sentenced to a term of imprisonment of more than one year under a final judgment of guilt by a Connecticut or U.S. court after a plea of guilty or nolo contendere or a guilty finding by a jury or the court.

Federal immigration Authority

Under the bill, "federal immigration authority" means any officer, employee, or other person paid by or acting as an agent of ICE or any officer, employee, or other person otherwise paid by or acting as an agent of the U.S. Department of Homeland Security who is charged with enforcing the civil provisions of the Immigration and Nationality Act.

Law Enforcement Officer

Under the bill, “law enforcement officer” means (1) each officer, employee, or other person otherwise paid by or acting as an agent of the Department of Correction, a municipal police department, or the State Police and (2) each judicial and state marshal.

BACKGROUND**Civil Immigration Detainer**

An immigration detainer is a notice of action, from an authorized immigration officer to any other federal, state, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department of Homeland Security seeks to arrest and remove an alien presently in the custody of that agency. (8 CFR § 287.7(a)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 11 (04/16/2013)

Public Safety and Security Committee

Joint Favorable

Yea 13 Nay 7 (05/14/2013)

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